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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/078,475	Applicant(s) BAN ET AL.	
	Examiner Mike Tomaszewski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 11 October 2005. Claims 1-8 are pending. Claims 1-8 have been amended. Claims 9-19 are newly added.

Claim Rejections - 35 USC § 101

2. The rejections given in the previous Office Action under 35 U.S.C. § 101 are hereby withdrawn in light of Applicant's amendments filed 11 October 2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3626

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claim 9 is unclear and indefinite because it fails to particularly point out within the claim what each variable is. For example, there is no clause such as the following:

"...wherein $L_x = \dots$ "

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summerell (5,937,387; hereinafter Summerell) in view of (6,059,724; hereinafter Campbell et al.).

Art Unit: 3626

(A) As per claim 1, Summerell discloses a health management support method implemented in a computer-based data processing system for generating life expectancy data to be used in a health management system, comprising:

- (a) providing a database for storing healthy life expectancy prediction data that represents transition of a percentage of normal people in each result of health screening (Summerell: abstract; col. 8, lines 16-25; col. 11-16; Fig. 7-14); and
- (b) generating health screening report data for each person who undergoes health screening by data entry means (Summerell: col. 8, line 50-55; Fig. 3).

Summerell, however, fails to expressly disclose a health management support method implemented in a computer-based data processing system for generating life expectancy data to be used in a health management system, comprising:

- (c) generating personal healthy life expectancy prediction data by selecting at least one of said healthy life expectancy prediction data based on said inputted health screening report data for each said person;
- (d) estimating a predicted period of healthy life expectancy of each said person, by calculating based on said selected personal healthy life expectancy prediction data; and

- (e) outputting said estimated predicted period of healthy life expectancy of each said person.

Nevertheless, these features are old and well known in the art, as evidenced by Campell. In particular, Campell discloses a health management support method implemented in a computer-based data processing system for generating life expectancy data to be used in a health management system, comprising:

- (c) generating personal healthy life expectancy prediction data by selecting at least one of said healthy life expectancy prediction data based on said inputted health screening report data for each said person (Campell: abstract; col. 4, lines 26-67; col. 5, lines 1-62);
- (d) estimating a predicted period of healthy life expectancy of each said person, by calculating based on said selected personal healthy life expectancy prediction data (Campell: abstract; col. 4, lines 26-67; col. 5, lines 1-62) (Examiner considers the time period prior to the predicted time period correlating with the onset of a health problem to read on “a predicted period of healthy life expectancy.”); and
- (e) outputting said estimated predicted period of healthy life expectancy of each said person (Campell: abstract; col. 4, lines 26-67; col. 5, lines 1-62; col. 9, lines 3-23).

Art Unit: 3626

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Campell with the teachings of Summerell with the motivation of providing a means of predicting the onset of health problems (Campell: col. 4, lines 27-32).

(B) As per claim 2, Summerell discloses a health management support method as recited in claim 1 further comprising:

a health management plan generation step which comprises generating health management plans for each said person who underwent health screening, based on the predicted value of healthy life expectancy of each said person (Summerell: col. 16, lines 51-67; col. 17, lines 1-27; Fig. 17-29).

(C) As per claim 3, Summerell discloses a health management support method as recited in claim 2, wherein the health management plan generation step comprises generating health screening recommendation plans (Summerell: abstract; col. 16, lines 51-67; col. 17, lines 1-36; Fig. 18-29).

(D) As per claim 4, Summerell discloses a health management support method as recited in claim 2, wherein the health management plan generation step further comprises generating healthy lifestyle practice recommendation plans for guiding each

Art Unit: 3626

person in improving his or her living habits such as meals, exercise, and smoking (Summerell: abstract; col. 16, lines 51-67; col. 17, lines 1-36; Fig. 18-29).

(E) As per claim 5, Summerell discloses a health management support method as recited in claim 4, further comprising:

a health management effect prediction step which comprises estimating change to the predicted period of healthy life expectancy of a person, wherein the expected change is based on the person practicing life-style improvement advised in a health management plan generated in the health management plan generation step (Summerell: abstract; col. 16, lines 51-67; col. 17, lines 1-36; Fig. 18-22).

(F) Claims 6-8 are unamended and are thus rejected for the same reasons provided in the previous Office Action.

(G) As per claim 9, Summerell fails to expressly disclose the health management support method according to claim 1, wherein said calculation is performed by applying an equation

$$\sum_{x=1}^{\infty} Lx/Li$$

to select said healthy life expectancy prediction data when age of said person is i.

Art Unit: 3626

However, the above formula appears to be nothing more than a normalization calculation. It is respectfully submitted that normalization techniques are old and well known in the art (See col. 11, lines 50-59 and Fig. 8 of Summerell.)

One of ordinary skill would have found it obvious at the time of the invention to substitute the normalization techniques of Summerell with the use of a particular formula, such as that recited in claim 9, with the motivation of providing various options to ^{quantify} a measure that is statistically relevant (Summerell: col. 1, lines 44-63).

(H) As per claim 10, Summerell discloses the health management support method according to claim 1, wherein said healthy life expectancy prediction data is generated by collecting health screening report data of a plurality of person, collecting medical data comprised of medical services details, generating a healthy life expectancy prediction data by calculating the percentage of the dead and the percentage of people being sick or disabled for every age from said medical data, and generating healthy life expectancy prediction data (Summerell: col. 9, lines 32-67; col. 10, lines 1-50).

(I) Claim 12 differs from claim 1 by reciting "...support program implemented in software stored on a tangible medium..." within its preamble. As per these elements, Summerell's health management support system includes a computer, server system, keyboard, display monitor, and a memory (Summerell: col. 7, lines 47-67; col. 8, lines 1-30). As such, it is readily apparent that Summerell's health management support

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Art Unit: 3626

system is controlled by a support program implemented in software stored on a tangible medium.

The remainder of claim 12 repeats the same limitations of method claim 1 and is therefore, rejected for the same reasons given above for claim 1 and incorporated herein.

(J) Claims 13-19 repeat the same limitations of claims 2-8 and are therefore, rejected for the same reasons given for those claims.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Summerell in view of Campbell as applied to claim 1 above, and further in view of Joao (6,283,761; hereinafter Joao).

(A) As per claim 11, Summerell fails to expressly disclose the health management support method according to claim 10, wherein medical data has medical fee bill data.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the health management support method according to claim 10, wherein medical data has medical fee bill data (Joao: abstract; col. 16 – col. 19).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Summerell with the motivation of

Art Unit: 3626

providing an apparatus and method for performing healthcare diagnoses (Joao: col. 8, lines 14-16).

Response to Arguments

8. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

9. At pages 8-9 of the 11 October 2005 response, Applicant makes the following arguments:

- (i) Summerell only teaches a "physiological age" which represents the wellness age at the present and not a predicted period of healthy life expectancy.
- (ii) The present invention uses its results for predicting medical fees in the future.
- (iii) Summerell falls short of teaching a method or program that incorporates the features of the recently amended or added claims.

(A) As per the first argument, Examiner respectfully submits that it is the teachings of Campbell and not Summerell that are relied upon for showing the predicted period of healthy life expectancy.

(B) As per the second argument, Applicant argues features that are not claimed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., present invention uses its results for predicting medical fees in the future) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(C) As per the third argument, the Examiner respectfully submits that Applicant appears to consider the Summerell reference in a vacuum, without considering the relevant teaching and motivations of the Campbell references, as applied in the rejections above and incorporated herein.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches a scientific wellness personal/clinical/laboratory assessments, profile and health risk management system with insurability rankings and cross-correlated 10-point optical health/fitness/wellness scales (5,692,501); a system and method for predicting disease onset (6,110,109); and a method and system for measuring the aging of a subject (6,547,729).

The cited but not applied prior art also includes non-patent literature articles by Jagger, Carol ("Health Expectancy Calculation by the Sullivan Method" Jun 13, 2001.); Saloman, Joshua. Mathers, Colin D. Murray, Christopher JL. Ferguson, Brodie ("Methods for life expectancy and healthy life expectancy uncertainty analysis" Aug 2001. World Health Organization.); Scientific Institute of Public Health ("Healthy Ageing"

Art Unit: 3626

Jun 26, 2000. @ <http://www.iph.fgov.be/epidemio/epien/PROG18.HTM>.); and
International Union for the Scientific Study of Population ("Longer Life and Healthy
Ageing" Oct 22-27, 2001. @ <http://www.iussp.org/Activities/scc-lon/lon-rep01.php>).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT



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